

CONFERENCE COMMITTEE REPORT DIGEST FOR EHB 1554

Citations Affected: IC 4-4; IC 5-22-5-8.5; IC 8-1.

Synopsis: Energy matters. PROPOSED CONFERENCE COMMITTEE REPORT FOR EHB 1554. Allows the Indiana office of energy development (IOED) to award grants to certain businesses and local government units that make qualified investments after June 30, 2009, to install and place into service in Indiana fueling stations that dispense alternative fuel (defined as liquefied petroleum gas, a compressed natural gas product, or a combination of liquefied petroleum gas and a compressed natural gas product). Provides that not more than one grant may be awarded for a single location. Provides that the amount of a grant awarded for a location may not exceed the lesser of: (1) the amount of the grant recipient's qualified investment for the location; or (2) \$20,000. Provides that the amount of a grant awarded for a location may be less than the amount of the grant recipient's qualified investment for the location. Provides that the total amount of grants awarded for all state fiscal years may not exceed \$1,000,000. Establishes the alternative fuel fueling station grant fund to award the grants, and provides that the IOED shall administer the fund. Allows the IOED to award grants to certain local government units that make qualified purchases after June 30, 2009, of: (1) one or more alternative fuel vehicles; or (2) one or more alternative fuel conversion kits. Provides that not more than one grant may be awarded to any one unit. Provides that the amount of a grant that may be awarded to a unit is the sum of: (1) \$2,000 multiplied by the number of alternative fuel vehicles purchased; plus (2) for each alternative fuel conversion kit purchased, an amount equal to the lesser of \$2,000 or the actual cost of the conversion kit. Provides that the IOED may limit the number of alternative fuel vehicles or alternative fuel conversion kits for which a unit may receive a grant. Provides that the total amount of grants awarded for all units may not exceed \$1,000,000. Establishes the local unit alternative fuel vehicle grant fund to award the grants, and requires the IOED to administer the fund. Provides that if a state entity (which excludes a state educational institution) purchases or leases a vehicle after December 31, 2009, it must purchase or lease a clean energy vehicle unless the department of administration determines that the purchase or lease of a clean energy vehicle: (1) is inappropriate because of the purposes for which the vehicle will be used; or (2) would cost at least 10% more than the purchase or lease of a vehicle that is not a clean energy vehicle and is designed and equipped comparably to the clean energy vehicle. Specifies that these requirements do not apply to the: (1) purchase or lease of vehicles by or for the state police department; and (2) short term or temporary lease of vehicles. Requires the department of administration to adopt rules or guidelines to provide a preference for the purchase or lease by

state entities of clean energy vehicles manufactured wholly or partially in Indiana or containing parts manufactured in Indiana. Provides that before August 1 of 2010 and each year thereafter, each state entity shall submit to the department of administration information regarding the use of clean energy vehicles and alternative fuels by the state entity. Requires the department of administration to submit a report to the general assembly and to the governor before September 1 of 2010 and each year thereafter that lists the information for each state entity and for all state agencies in the aggregate. Establishes the office of alternative energy incentives (office) within the IOED to administer a program to provide incentives for rural electric membership corporations (corporations) and their cooperatively owned power suppliers to develop alternative energy projects. Provides that: (1) the director of the IOED; or (2) the designee of the director of the IOED; shall serve as the office's director. Establishes the alternative energy incentive fund (incentive fund) to provide funds to corporations for use in developing alternative energy projects. Requires the office to administer the incentive fund and to establish an account within the incentive fund for each corporation. Provides that not later than August 1 of each year, beginning in 2009, a corporation may apply to the office to have access to a certain percentage of the total funds in the corporation's account as of July 1 of the year, based on the percentage of the corporation's total sales from the provision of retail energy service during the preceding calendar year that was attributable to alternative energy projects. Allows two or more corporations that are members of the same cooperatively owned power supplier to develop alternative energy projects jointly. Sets forth limitations on how money drawn from a corporation's account may be used. Gives the office authority to adopt rules to implement the program. Provides that any money that may become available to a corporation in connection with federal economic stimulus programs may not become part of the incentive fund or an account within the incentive fund without the consent of the corporation. Provides that a corporation shall have access to federal economic stimulus funds: (1) for the same uses; and (2) in accordance with the same processes; as any other energy utility may have access to or use federal economic stimulus money. Amends the definition of "renewable energy resources" for purposes of utility generation and clean coal technology statutes to: (1) provide that energy from waste to energy facilities, to fall within the definition, is not limited to facilities producing steam not used for the production of electricity; and (2) include energy storage systems. Makes appropriations. **(This conference committee report adds the provisions concerning clean energy vehicles and alternative energy projects and the amendment of the definition of "renewable energy resources".)**

Effective: Upon passage; July 1, 2009.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill No. 1554 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 4-4-32.2 IS ADDED TO THE INDIANA CODE
- 3 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 4 JULY 1, 2009]:
- 5 **Chapter 32.2. Alternative Fuel Fueling Station Grant Program**
- 6 **Sec. 1. As used in this chapter, "alternative fuel" means**
- 7 **liquefied petroleum gas, a compressed natural gas product, or a**
- 8 **combination of liquefied petroleum gas and a compressed natural**
- 9 **gas product, not including a biodiesel fuel or biodiesel blend, used**
- 10 **in an internal combustion engine or a motor to propel a motor**
- 11 **vehicle. The term includes all forms of fuel commonly or**
- 12 **commercially known or sold as butane, propane, or compressed**
- 13 **natural gas.**
- 14 **Sec. 2. As used in this chapter, "alternative fuel compatible",**
- 15 **with respect to a fueling station, means capable of storing and**
- 16 **delivering alternative fuel in conformance with any governmental**
- 17 **or other nationally recognized standards that apply to the storage**
- 18 **and handling of alternative fuel, as determined under standards**
- 19 **adopted by the office under section 12(1) of this chapter.**
- 20 **Sec. 3. As used in this chapter, "fueling station" refers to**
- 21 **tangible property (other than a building and its structural**
- 22 **components) that:**

(1) consists of:

(A) a tank or other storage unit;

(B) a pump or other dispensing equipment; and

(C) other components; and

(2) is used by:

(A) a person engaged in the business of selling motor fuel at retail, to enable motor fuel to be dispensed directly into the fuel tank of a customer's motor vehicle;

(B) a person engaged in a business, other than a business described in clause (A), to enable motor fuel to be dispensed directly into the fuel tank of a motor vehicle, if the fueling station is accessible to members of the public; or

(C) a unit to enable motor fuel to be dispensed directly into the fuel tank of a motor vehicle, regardless of whether the fueling station is accessible to members of the public.

Sec. 4. As used in this chapter, "location" refers to one (1) or more parcels of land that:

(1) have a common access to a public highway; and

(2) are or would appear to the reasonable person making an observation from a public highway to be part of the same business.

Sec. 5. (a) As used in this chapter, "motor fuel" has the meaning set forth in IC 6-6-4.1-1(g).

(b) The term includes alternative fuel.

Sec. 6. As used in this chapter, "motor vehicle" has the meaning set forth in IC 15-11-11-4.

Sec. 7. As used in this chapter, "office" refers to the Indiana office of energy development.

Sec. 8. As used in this chapter, "qualified investment" refers to an ordinary and usual expense that is incurred after June 30, 2009, to purchase any part of an alternative fuel compatible fueling station for the purpose of:

(1) installing a new alternative fuel compatible fueling station at a location on which a fueling station is not located; or

(2) replacing an existing fueling station that is not an alternative fuel compatible fueling station with a fueling station that is an alternative fuel compatible fueling station.

Sec. 9. As used in this chapter, "unit" means a county, city, town, township, or school corporation.

Sec. 10. (a) Subject to subsections (b) and (c), the office may award a grant under this chapter to a person or unit that:

(1) makes a qualified investment; and

(2) places the alternative fuel compatible fueling station for which the qualified investment was made into service;

in Indiana for the dispensing of alternative fuel into the fuel tanks of motor vehicles.

(b) A recipient of a grant awarded under this chapter must comply with any guidelines developed by the office in connection with grants awarded under this chapter.

(c) The office may not award more than one (1) grant under this

chapter for a single location.

Sec. 11. (a) Subject to subsection (b) and section 13 of this chapter, the office shall determine the amount of each grant awarded under this chapter.

(b) The amount of a grant awarded under this chapter for a location may not exceed the lesser of the following:

(1) The amount of the grant recipient's qualified investment for the location.

(2) Twenty thousand dollars (\$20,000).

(c) The amount of a grant awarded under this chapter for a location may be less than the amount of the grant recipient's qualified investment for the location.

Sec. 12. The office shall do the following:

(1) Adopt guidelines to determine standards for awarding grants under this chapter, including standards for determining whether a fueling station complies with applicable governmental or other nationally recognized standards that apply to the storage and handling of alternative fuel.

(2) Prepare and supervise the issuance of public information concerning the grant program established under this chapter.

(3) Prescribe the form for and regulate the submission of applications for grants under this chapter.

(4) Determine an applicant's eligibility for a grant under this chapter.

Sec. 13. The total amount of grants awarded under this chapter for all state fiscal years may not exceed one million dollars (\$1,000,000).

Sec. 14. (a) The alternative fuel fueling station grant fund is established to provide grants under this chapter. The fund shall be administered by the office.

(b) The fund consists of:

(1) money appropriated to the fund by the general assembly;

(2) money received from state or federal grants or programs for alternative fuels projects; and

(3) donations, gifts, and money received from any other source, including transfers from other funds or accounts.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund but remains in the fund to be used exclusively for purposes of this chapter.

(e) Money in the fund is continuously appropriated for the purposes of this chapter.

Sec. 15. A grant awarded under this chapter is not subject to taxation under IC 6-3-1 through IC 6-3-7.

Sec. 16. A grant awarded under this chapter does not reduce the basis of the qualified property for purposes of determining any gain or loss on the property when the grant recipient disposes of the property.

SECTION 2. IC 4-4-32.3 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 32.3. Alternative Fuel Vehicle Grant Program for Local Units

Sec. 1. As used in this chapter, "alternative fuel" means liquefied petroleum gas, a compressed natural gas product, or a combination of liquefied petroleum gas and a compressed natural gas product, not including a biodiesel fuel or biodiesel blend, used in an internal combustion engine or a motor to propel a motor vehicle (as defined in IC 15-11-11-4). The term includes all forms of fuel commonly or commercially known or sold as butane, propane, or compressed natural gas.

Sec. 2. As used in this chapter, "alternative fuel conversion kit" means any equipment used to convert a motor vehicle (as defined in IC 15-11-11-4) that is not an alternative fuel vehicle into an alternative fuel vehicle, in conformance with any applicable governmental or other nationally recognized safety or design standards, as determined under standards adopted by the office under section 8(1) of this chapter.

Sec. 3. As used in this chapter, "alternative fuel vehicle" means any motor vehicle (as defined in 15-11-11-4) that is designed to operate:

- (1) on alternative fuel alone; or
- (2) on alternative fuel alternately with another fuel source; in conformance with any applicable governmental or other nationally recognized safety or design standards, as determined under standards adopted by the office under section 8(1) of this chapter.

Sec. 4. As used in this chapter, "office" refers to the Indiana office of energy development.

Sec. 5. As used in this chapter, "qualified purchase" refers to the purchase by a unit after June 30, 2009, of any of the following:

- (1) One (1) or more alternative fuel vehicles.
- (2) One (1) or more alternative fuel conversion kits, including any installation costs.

Sec. 6. As used in this chapter, "unit" means a county, city, town, township, or school corporation.

Sec. 7. (a) Subject to subsections (d) and (e), the office may award a grant under this chapter to a unit that makes a qualified purchase.

(b) Subject to subsection (c) and section 9 of this chapter, the amount of a grant that may be awarded under this chapter to a unit equals the amount determined under STEP FOUR of the following formula:

STEP ONE: Determine the product of:

- (A) two thousand dollars (\$2,000); multiplied by
- (B) the number of alternative fuel vehicles purchased by the unit.

STEP TWO: For each alternative fuel conversion kit purchased by the unit, determine the lesser of:

(A) two thousand dollars (\$2,000); or

(B) the actual cost of the alternative fuel conversion kit.

STEP THREE: Determine the sum of all amounts determined under STEP TWO.

STEP FOUR: Add the amounts determined under STEPS ONE and THREE.

(c) In the guidelines adopted by the office under section 8(1) of this chapter, the office may limit the:

(1) number of alternative fuel vehicles; or

(2) number of alternative fuel conversion kits;

for which a unit may receive a grant under this chapter.

(d) A recipient of a grant awarded under this chapter must comply with any guidelines developed by the office in connection with grants awarded under this chapter.

(e) The office may not award more than one (1) grant under this chapter to any one (1) unit.

Sec. 8. The office shall do the following:

(1) Adopt guidelines to determine standards for awarding grants under this chapter, including standards for determining whether an alternative fuel vehicle or an alternative fuel conversion kit complies with applicable governmental or other nationally recognized standards.

(2) Prepare and supervise the issuance of information to units concerning the grant program established under this chapter.

(3) Prescribe the form for and regulate the submission of applications for grants under this chapter.

(4) Determine an applicant's eligibility for a grant under this chapter.

Sec. 9. The total amount of grants awarded under this chapter for all units may not exceed one million dollars (\$1,000,000).

Sec. 10. (a) The local unit alternative fuel vehicle grant fund is established to provide grants under this chapter. The fund shall be administered by the office.

(b) The fund consists of:

(1) money appropriated to the fund by the general assembly;

(2) money received from state or federal grants or programs for alternative fuels projects; and

(3) donations, gifts, and money received from any other source, including transfers from other funds or accounts.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund but remains in the fund to be used exclusively for purposes of this chapter.

(e) Money in the fund is continuously appropriated for the purposes of this chapter.

SECTION 3. IC 5-22-5-8.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 8.5. (a)** As used in this section, "clean energy vehicle" means any of the following:

(1) A vehicle that operates on one (1) or more of the following energy sources:

(A) A rechargeable energy storage system.

(B) Hydrogen.

(C) Compressed air.

(D) Compressed or liquid natural gas.

(E) Solar energy.

(F) Liquefied petroleum gas.

(G) Any other alternative fuel (as defined in IC 6-3.1-31.9-1).

(2) A vehicle that operates on gasoline and one (1) or more of the energy sources listed in subdivision (1).

(3) A vehicle that operates on diesel fuel and one (1) or more of the energy sources listed in subdivision (1).

(b) As used in this section, "state entity" means the following:

(1) A state agency.

(2) Any other authority, board, branch, commission, committee, department, division, or other instrumentality of the executive (including the administrative), legislative, or judicial department of state government.

The term includes a state elected official's office and excludes a state educational institution.

(c) As used in this section, "vehicle" includes the following:

(1) An automobile.

(2) A truck.

(3) A tractor.

(d) Except as provided in subsection (e), if a state entity purchases or leases a vehicle after December 31, 2009, it must purchase or lease a clean energy vehicle unless the Indiana department of administration determines that the purchase or lease of a clean energy vehicle:

(1) is inappropriate because of the purposes for which the vehicle will be used; or

(2) would cost at least ten percent (10%) more than the purchase or lease of a vehicle that:

(A) is not a clean energy vehicle; and

(B) is designed and equipped comparably to the clean energy vehicle.

(e) The requirements of subsection (d) do not apply to the:

(1) purchase or lease of vehicles by or for the state police department; and

(2) short term or temporary lease of vehicles.

(f) The Indiana department of administration shall, before January 1, 2010, adopt rules or guidelines to provide a preference for the purchase or lease by state entities of clean energy vehicles manufactured wholly or partially in Indiana or containing parts manufactured in Indiana.

(g) Before August 1 of 2010 and each year thereafter, each state entity shall submit to the Indiana department of administration information regarding the use of clean energy vehicles by the state entity. The information must specify the following for the

preceding state fiscal year:

(1) The amount of alternative fuels purchased by the state entity.

(2) The amount of conventional fuels purchased by the state entity.

(3) The average price per gallon paid by the state entity for each type of fuel purchased by the state entity.

(4) The total number of vehicles purchased or leased by the state agency that were clean energy vehicles and the total number of vehicles purchased or leased by the state agency that were not clean energy vehicles.

(5) Any other information required by the Indiana department of administration.

(h) Before September 1 of 2010 and each year thereafter, the Indiana department of administration shall submit to the general assembly in an electronic format under IC 5-14-6 and to the governor a report that lists the information required under subsection (g) for each state entity and for all state agencies in the aggregate.

SECTION 4. IC 8-1-8.8-10, AS AMENDED BY P.L.175-2007, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) As used in this chapter, "renewable energy resources" means alternative sources of renewable energy, including the following:

(1) Energy from wind.

(2) Solar energy.

(3) Photovoltaic cells and panels.

(4) Dedicated crops grown for energy production.

(5) Organic waste biomass, including any of the following organic matter that is available on a renewable basis:

(A) Agricultural crops.

(B) Agricultural wastes and residues.

(C) Wood and wood wastes, including the following:

(i) Wood residues.

(ii) Forest thinnings.

(iii) Mill residue wood.

(iv) Waste from clean construction and demolition.

(D) Animal wastes.

(E) Aquatic plants.

(6) Hydropower from existing dams.

(7) Fuel cells.

(8) Energy from waste to energy facilities. ~~producing steam not used for the production of electricity.~~

(9) Energy storage systems.

(b) Except for energy described in subsection (a)(8), the term does not include energy from the incinerations, burning, or heating of any of the following:

(1) Tires.

(2) General household, institutional, commercial, industrial lunchroom, office, or landscape waste.

(c) The term excludes treated or painted lumber.

SECTION 5. IC 8-1-13.1 IS ADDED TO THE INDIANA CODE
AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
UPON PASSAGE]:

**Chapter 13.1. Alternative Energy Projects by Rural Electric
Membership Corporations**

Sec. 1. The general assembly makes the following findings:

(1) Alternative energy projects result in quantifiable
reductions in, or the avoidance of, regulated air pollutants
and carbon emissions produced by traditional electric
generating facilities that use fossil fuels as their fuel source.

(2) Corporations and cooperatively owned power suppliers
should plan and implement alternative energy projects on
behalf of and at the request of their members.

(3) Incentives that encourage corporations and their
cooperatively owned power suppliers to:

(A) develop alternative energy projects; and

(B) apply for, and contribute matching funds to, state or
federal grants and programs for alternative energy
projects;

are in the public interest of the state and its citizens and are
crucial to the state's economic development efforts.

**Sec. 2. As used in this chapter, "alternative energy project"
means a project that:**

(1) develops or makes use of:

(A) clean coal and energy projects (as defined in
IC 8-1-8.8-2);

(B) renewable energy resources (as defined in
IC 8-1-8.8-10) for the production of electricity;

(C) integrated gasification combined cycle (IGCC)
technology to produce synthesis gas that is used:

(i) to generate electricity; or

(ii) as a substitute for natural gas;

regardless of the fuel source used to produce the synthesis
gas;

(D) methane recovered from landfills for the production of
electricity;

(E) demand side management, energy efficiency, or
conservation programs; or

(F) coal bed methane.

(2) results in quantifiable reductions in, or the avoidance of:

(A) the use of electricity produced by traditional electric
generating facilities that use fossil fuels as their fuel
source; or

(B) regulated air pollutants and carbon emissions
produced by traditional electric generating facilities that
use fossil fuels as their fuel source; and

(3) is implemented under a plan approved by:

(A) the office; and

(B) a corporation's or a cooperatively owned power
supplier's board of directors.

Sec. 3. As used in this chapter, "cooperatively owned power

1 **supplier" means:**

- 2 (1) an energy utility (as defined in IC 8-1-2.5-2) that is a
 3 general district corporation organized under IC 8-1-13; or
 4 (2) an energy utility that is organized under IC 23-17 and
 5 whose membership includes one (1) or more corporations
 6 organized under IC 8-1-13.

7 **Sec. 4.** As used in this chapter, "corporation" means a
 8 corporation organized under IC 8-1-13 as a local district
 9 corporation (as defined in IC 8-1-13-23(b)).

10 **Sec. 5.** As used in this chapter, "director" refers to the director
 11 of the office of alternative energy incentives serving under section
 12 9(b) of this chapter.

13 **Sec. 6.** As used in this chapter, "fund" refers to the alternative
 14 energy incentive fund established by section 10 of this chapter.

15 **Sec. 7.** As used in this chapter, "office" refers to the office of
 16 alternative energy incentives established by section 9 of this
 17 chapter.

18 **Sec. 8.** As used in this chapter, "retail energy service" has the
 19 meaning set forth in IC 8-1-2.5-3.

20 **Sec. 9. (a)** The office of alternative energy incentives is
 21 established within the Indiana office of energy development.

22 **(b) The:**

- 23 (1) director of the Indiana office of energy development; or
 24 (2) designee of the Indiana office of energy development, who
 25 must be qualified by knowledge of or experience in the electric
 26 utility industry;

27 shall serve as the director of the office.

28 **(c) The director:**

- 29 (1) serves at the pleasure of and is responsible to the director
 30 of the Indiana office of energy development, if the director is
 31 a designee of the director of the Indiana office of energy
 32 development;
 33 (2) may receive compensation in an amount determined by the
 34 director of the Indiana office of energy development, subject
 35 to the approval of the budget agency, if the director is a
 36 designee of the director of the Indiana office of energy
 37 development;
 38 (3) serves as the chief executive and administrative officer of
 39 the office; and
 40 (4) may, to the extent appropriate, delegate the director's
 41 authority under this chapter, subject to the approval of:
 42 (A) the director of the Indiana office of energy
 43 development, if the director is a designee of the director of
 44 the Indiana office of energy development; and
 45 (B) the budget agency.

46 **(d) The director of the Indiana office of energy development**
 47 **may:**

- 48 (1) establish; and
 49 (2) appoint members to;
 50 an advisory board to advise the office in the administration of this
 51 chapter.

1 **Sec. 10. (a) The alternative energy incentive fund is established**
 2 **for the purpose of providing funds to corporations for use in the**
 3 **development of alternative energy projects. The fund shall be**
 4 **administered by the office.**

5 **(b) The fund consists of:**

- 6 **(1) money appropriated to the fund by the general assembly;**
- 7 **(2) money received from state or federal grants or programs**
 8 **for alternative energy projects; and**
- 9 **(3) donations, gifts, and money received from any other**
 10 **source, including transfers from other funds or accounts.**

11 **(c) Money in the fund is continuously appropriated for the**
 12 **purposes of this section.**

13 **(d) Money in the fund may be spent only in accordance with this**
 14 **chapter and to carry out the purposes of this chapter.**

15 **(e) The expenses of administering the fund shall be paid from**
 16 **money in the fund.**

17 **(f) Notwithstanding IC 5-13, the treasurer of state shall invest**
 18 **the money in the fund not currently needed to meet the obligations**
 19 **of the fund in the same manner as money is invested by the public**
 20 **employees retirement fund under IC 5-10.3-5. The treasurer of**
 21 **state may contract with investment management professionals,**
 22 **investment advisers, and legal counsel to assist in the investment of**
 23 **the fund and may pay the expenses incurred under those contracts**
 24 **from the fund. Interest that accrues from these investments shall**
 25 **be deposited in the fund.**

26 **(g) Money in the fund at the end of a state fiscal year does not**
 27 **revert to the state general fund.**

28 **Sec. 11. The office shall establish an account within the fund for**
 29 **each corporation.**

30 **Sec. 12. (a) Beginning in 2009, not later than August 1 of each**
 31 **year, a corporation may apply to the office to have access to a**
 32 **percentage of the total funds that are, as of July 1 of the year, in**
 33 **the account established for the corporation under section 11 of this**
 34 **chapter, as follows:**

35 **(1) A corporation may have access to not more than forty**
 36 **percent (40%) of the total funds in the corporation's account**
 37 **if the corporation certifies to the office that alternative energy**
 38 **projects accounted for five percent (5%) or less of the**
 39 **corporation's total sales from the provision of retail energy**
 40 **service during the preceding calendar year.**

41 **(2) A corporation may have access to not more than seventy**
 42 **percent (70%) of the total funds in the corporation's account**
 43 **if the corporation certifies to the office that alternative energy**
 44 **projects accounted for:**

45 **(A) more than five percent (5%); and**

46 **(B) not more than ten percent (10%);**

47 **of the corporation's total sales from the provision of retail**
 48 **energy service during the preceding calendar year.**

49 **(3) A corporation may have access to one hundred percent**
 50 **(100%) of the total funds in the corporation's account if the**
 51 **corporation certifies to the office that:**

(A) alternative energy projects accounted for at least ten percent (10%) of the corporation's total sales from the provision of retail energy service during the preceding calendar year;

(B) at least fifty percent (50%) of the sales attributed to alternative energy projects under clause (A) were made to Indiana customers; and

(C) at least fifty percent (50%) of the alternative energy projects that:

(i) under clause (A) accounted for at least ten percent (10%) of the corporation's total sales from the provision of retail energy service during the preceding calendar year; and

(ii) are energy production or generating facilities; are located in Indiana.

(b) A corporation that seeks access to a percentage of the total funds in the corporation's account under subsection (a) shall submit:

(1) an application to the office on a form prescribed by the office; and

(2) any documentation required by the office to support the corporation's certification of the percentage of its total sales from the provision of retail energy service that is attributable to alternative energy projects during the preceding calendar year.

An application submitted under this section must be signed under penalty of perjury by an officer of the corporation or another person authorized to bind the corporation.

(c) The application form prescribed by the office and described in subsection (b)(1) must require the applicant to identify:

(1) each planned or existing alternative energy project in which the applicant plans to invest money drawn from the applicant's account under this section;

(2) the amount of money the applicant plans to invest in each alternative energy project identified under subdivision (1); and

(3) any other corporations, cooperatively owned power suppliers, or other persons that have invested or will invest money in each alternative energy project identified under subdivision (1), to the extent known by the applicant.

(d) Upon receiving an application and any supporting documents from a corporation under subsection (b), the office shall review the application and documents for accuracy and completeness. If the office determines that the application and documents are accurate, complete, and properly verified, the office shall notify the corporation as soon as practicable, but in any case not later than thirty (30) days after the date of the corporation's application, that the corporation may have access to the percentage of funds for which the corporation qualifies under subsection (a). If the office determines that the application and documents are inaccurate or incomplete, or are not properly verified, the office

shall immediately notify the corporation of any additional information or verifications required. If there is disagreement between a corporation and the office about:

- (1) the accuracy or completeness of an application or any documents submitted in conjunction with an application; or
- (2) the determination of, or the method used to determine, the percentage of a corporation's total sales from the provision of retail energy service that is attributable to alternative energy projects;

the corporation may request a hearing or any other procedure for resolving disputes established by the office in rules adopted under section 15 of this chapter.

(e) A corporation may receive the percentage of funds for which it qualifies under subsection (a) for a particular year in one (1) or more installments. However, any money received by a corporation under this section may be used only for one (1) or more alternative energy projects in accordance with section 14 of this chapter.

Sec. 13. (a) Two (2) or more corporations that are members of the same cooperatively owned power supplier may:

- (1) develop alternative energy projects jointly; and
- (2) share money drawn from their respective accounts in the fund with the corporations' cooperatively owned power supplier, as long as the cooperatively owned power supplier uses the money for one (1) or more alternative energy projects in accordance with section 14 of this chapter.

(b) For purposes of determining the percentage of a corporation's total sales from the provision of retail energy service that is attributable to alternative energy projects under section 12 of this chapter, any joint project described in subsection (a)(1) shall be allocated among the participating corporations according to each corporation's respective investment in the joint project.

Sec. 14. (a) A corporation's board of directors is entitled to determine how money drawn from the corporation's account under section 12 of this chapter is used, subject to the following:

- (1) Money drawn from the corporation's account under section 12 of this chapter must be used for an alternative energy project that is approved by:

- (A) the office; and
- (B) the corporation's board.

- (2) If the money will be used to develop or invest in an alternative energy project that involves:

- (A) the construction of a new energy production or generating facility; or
- (B) the expansion or extension of an existing energy production or generating facility;

the facility to be constructed, expanded, or extended as part of the alternative energy project must be located in Indiana.

- (3) Money drawn from the corporation's account under section 12 of this chapter may not be used to purchase electricity produced from an alternative energy project, unless the alternative energy project:

(A) is located in Indiana; and

(B) first came online after July 1, 2009.

(4) If the money will be used for a demand side management, energy efficiency, or conservation program, the money must be dedicated to Indiana customers participating in the demand side management, energy efficiency, or conservation program.

(b) Subject to subsection (a), money drawn from the corporation's account under section 12 of this chapter may be used for:

(1) reimbursement to the corporation for money invested by the corporation:

(A) within the thirty-six (36) month period immediately preceding the date funds are applied for by the corporation under section 12 of this chapter; and

(B) for the expansion or extension of an alternative energy project; and

(2) contributions of matching funds to state or federal programs for alternative energy projects.

Sec. 15. (a) The office may adopt rules under IC 4-22-2 to implement this chapter. Any rules adopted by the office under this section must include:

(1) requirements for plans for alternative energy projects submitted by corporations and cooperatively owned power suppliers to the office under this chapter;

(2) standards by which the office evaluates plans described in subdivision (1);

(3) standards or methodologies for determining the percentage of a corporation's total sales from the provision of retail energy service that is attributable to alternative energy projects under section 12 of this chapter;

(4) standards and procedures to ensure that a corporation does not receive money from the fund for an investment in, or a purchase of electricity from, an alternative energy project if money has been received from the fund by another applicant for the same or an equivalent investment or purchase;

(5) procedures for resolving disputes that arise between a corporation and the office concerning:

(A) the accuracy or completeness of an application or any documents submitted to the office by a corporation under section 12(b) of this chapter; or

(B) the determination of, or the method used to determine, the percentage of a corporation's total sales from the provision of retail energy service that is attributable to alternative energy projects under section 12 of this chapter; and

(6) any other standards, methodologies, or requirements necessary to implement this chapter.

(b) In adopting rules under this section, the office may consult with the Indiana office of energy development.

1 **Sec. 16. This chapter shall not be construed to constrain a**
2 **corporation's access to and immediate use of federal economic**
3 **stimulus funds for alternative energy projects. Notwithstanding**
4 **any provision of this chapter, any money that may become**
5 **available to a corporation in connection with federal economic**
6 **stimulus programs may not become part of the fund or an account**
7 **established under this chapter without the consent of the**
8 **corporation, which shall have access to federal economic stimulus**
9 **funds:**

10 **(1) for the same uses; and**

11 **(2) in accordance with the same processes;**

12 **as any other energy utility (as defined in IC 8-1-2.5-2) may have**
13 **access to or use federal economic stimulus money.**

14 **SECTION 6. An emergency is declared for this act.**

 (Reference is to EHB 1554 as reprinted April 15, 2009.)

Conference Committee Report
on
Engrossed House Bill 1554

Signed by:

Representative Battles
Chairperson

Senator Gard

Representative Koch

Senator Breaux

House Conferees

Senate Conferees